

UNITED STATES DISTRICT COURT []
DISTRICT OF MASSACHUSETTS [] OFFICE

SANDY J. BATTISTA,
Plaintiff,

vs.

KATHLEEN M. DENNEHY, Commissioner, et al.,
Defendant's.

CASE NO. P 1:52

UNITED STATES COURT
CLERK'S OFFICE

CLERK'S CLASS
C.A.NO.

05-11456 DPW

PLAINTIFF'S MOTION TO WAIVE THE REQUIREMENT OF A
FILING FEE AND TO BE ALLOWED TO PROCEED IN FORMA PAUPERIS

Plaintiff, Sandy J. Battista, acting pro-se in the above captioned matter, respectfully requests this Court to waive the requirement of a filing fee and allow her to proceed in this action in forma pauperis. As grounds, plaintiff states the following:

1) That plaintiff is currently "civilly" committed to the Mass. Treatment Center, under an Order of civil detention from a Massachusetts Superior Court, ^{1/} pursuant to G.L. c.123A, §14(d), as amended by St.1999, c.74.

2) That since the plaintiff, as a civilly committed patient at the Mass. Treatment Center, is not a "prisoner" under the terms of the Prison Litigation Reform Act ("PLRA"), see Perkins vs. Hedges, 340 F.3d 582, 583 (8th Cir. 2003); Trovillo vs. Venz, 303 F.3d 1256, 1559-60 (11th Cir. 2002); Yoder vs. Patla, 234 F.3d

[1] See Commonwealth vs. Sandy J. Battista, WORCV01-1108-C.

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1275 (7th Cir. 2000); Page vs. Torrey, 201 F.3d 1136, 1139-40 (9th Cir. 2000); see King vs. Greenblatt, 53 F.Supp.2d 117, 138 (D.Mass. 1999), she is not subjected to the "fee paying requirement" under the PLRA.

3) As reflected by the attached Application to Proceed Without Prepayment of Fees and Affidavit, plaintiff is financially unable to afford the costs of the filing fees in this matter, and has no expectation of being able to in the future.

WHEREFORE, it is respectfully prayed that this Court ALLOWS this motion and it's Order issue waiving the requirement of the filing fee and GRANTING plaintiff in forma pauperis status.

Dated: 7/6/05.

Respectfully submitted,


Sandy J. Battista, #M-15930
Plaintiff/Pro-se
Mass. Treatment Center
30 Administration Rd.
Bridgewater, Mass. 02324-3230